

Exhibit D



ORIGINAL

GARY MANSFIELD

April 27, 2006

Page 1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
C.A. NO. 04-12164-MLW

ERIC SOUVANNAKANE,

Plaintiff

v.

SEARS, ROEBUCK AND CO.,

Defendant

DEPOSITION OF: GARY MANSFIELD

Law Offices of Kurt Olson

500 Federal Street

Andover, Massachusetts

April 27, 2006 10:00 a.m.

Charlotte C. Rosati

Registered Professional Reporter

CATUOGNO COURT REPORTING SERVICES

Springfield, MA Worcester, MA Boston, MA Lawrence, MA Providence, RI

GARY MANSFIELD

April 27, 2006

Page 2

1 APPEARANCES:

2

3 Representing the Plaintiff:

4 LAW OFFICES OF KURT OLSON

5 500 Federal Street

6 Andover, MA 01810

7 (978) 681-0800

8 BY: KURT OLSON, ESQ.

9

10

11 Representing the Defendant:

12 SUGARNAN, ROGERS, BARSHAK & COHEN, P.C.

13 101 Merrimac Street

14 Boston, MA 02114-4001

15 (617) 227-3030

16 BY: CHRISTINE M. NETSKI, ESQ.

17

18

19 Representing Gary Mansfield:

20 PIERCE, DAVIS & PERRITANO, LLP

21 Ten Winthrop Square

22 Boston, MA 02110-1257

23 (617) 350-0950

24 BY: JOHN J. CLOHERTY III

CATUOGNO COURT REPORTING SERVICES

Springfield, MA Worcester, MA Boston, MA Lawrence, MA Providence, RI

GARY MANSFIELD

April 27, 2006

Page 3

I N D E X

WITNESS: GARY MANSFIELD

EXAMINATION BY:	PAGE:
Mr. Olson	4
	31
Ms. Netski	27
Mr. Cloherty	28

E X H I B I T S PAGE:

No. 1	Defendant Gary Mansfield's	15
	Answers To Plaintiff's First	
	Set Of Interrogatories	
No. 2	ENPRO Services, Inc.	23
	Invoice, 2pp	
No. 3	Sears Asset Protection	24
	Department Incident Report,	
	1pp	

CATUOGNO COURT REPORTING SERVICES

Springfield, MA Worcester, MA Boston, MA Lawrence, MA Providence, RI

GARY MANSFIELD

April 27, 2006

Page 4

STIPULATIONS

It is agreed by and between the parties that all objections, except objections as to the form of the questions, are reserved and may be raised at the time of trial for the first time.

It is further agreed by and between the parties that all motions to strike unresponsive answers are reserved and may be raised at the time of trial for the first time.

It is further agreed by and between the parties that the reading and signing of the deposition by the deponent may be signed under the pains and penalties of perjury within (30) thirty days of receipt.

- - - -

GARY MANSFIELD, having been satisfactorily identified and duly sworn by the Notary Public, deposes and states as follows:

EXAMINATION BY MR. OLSON:

Q. Good morning, Officer Mansfield. As you know, my name is Kurt Olson, and I represent

GARY MANSFIELD

April 27, 2006

Page 5

1 the Plaintiff in this action, Eric
2 Souvannakane. We have already agreed to the
3 stipulations.

4 Have you ever been deposed
5 before, sir?

6 A. Yes.

7 Q. Okay. And are you taking any
8 medication, or do you suffer from any allergies
9 that might impair your ability to testify
10 competently?

11 A. No.

12 Q. Just some brief information as to how
13 we conduct the deposition. I'm going to ask you
14 a series of questions. The Court Reporter will
15 attempt to record everything verbatim. If
16 there's anything you don't understand, please
17 stop me and ask for clarification, and I'll be
18 happy to provide it.

19 If you do answer without
20 asking for clarification, I'll take it that you
21 understood the nature of my question.

22 A. Yes.

23 Q. Can we agree that we also will speak
24 and respond in words, rather than nodding and in

GARY MANSFIELD

April 27, 2006

Page 6

1 body movements, just so the Court Reporter
2 understands?

3 A. I'll do my best.

4 Q. All right. And can we also agree that
5 we don't interrupt each other so I can ask my
6 question before you answer another one and I
7 finish asking the question before you answer?

8 A. Yes.

9 Q. Okay. Great. It would also be a good
10 idea for the Court Reporter if we avoid speaking
11 over each other because obviously it would be
12 hard for her to make an accurate record if we
13 are.

14 It's also important for the
15 Court Reporter that we keep our voices up.
16 Usually I sort of trail off toward the end of my
17 sentences, but I'll keep my voice up, if that's
18 agreeable.

19 A. Okay.

20 Q. I'm also well-known around the school
21 for speaking fast on occasion, so I'll try to
22 speak slow and clearly. And if you could do the
23 same, it would make it easier for her.

24 If you have need a break

CATUOGNO COURT REPORTING SERVICES

Springfield, MA Worcester, MA Boston, MA Lawrence, MA Providence, RI

GARY MANSFIELD

April 27, 2006

Page 7

1 for the rest room at any point, please let me
2 know. I'll be happy to accommodate you.

3 A. Thank you.

4 Q. And you understand the Court Reporter
5 has already sworn you, so your testimony today
6 is given under oath?

7 A. Yes.

8 Q. Okay. With whom did you speak in
9 order to prepare for your deposition today, if
10 anyone?

11 MR. CLOHERTY: Objection.
12 Other than counsel?

13 MR. OLSON: Yes, other than
14 counsel.

15 A. No one.

16 Q. (By Mr. Olson) And did you bring any
17 documents with you today?

18 A. No.

19 Q. I guess I'm assuming since you didn't
20 bring your license, you didn't bring any
21 documents. Did you make any notes in
22 preparation for your testimony today?

23 MR. CLOHERTY: Objection.
24 You can answer.

GARY MANSFIELD

April 27, 2006

Page 8

1 A. No.

2 Q. (By Mr. Olson) Could you state your
3 full name?

4 A. Gary Mansfield.

5 Q. And spell your last name for the
6 record, please?

7 A. M-A-N-S-F-I-E-L-D.

8 Q. Thank you. And when were you born?

9 A. May 1st, 1954.

10 Q. Where?

11 A. Where?

12 Q. Yes.

13 A. Lynn, Massachusetts.

14 Q. Okay. Where do you live now?

15 A. In Saugus.

16 Q. And how long have you lived there?

17 A. Fifty-one point eleven-- I'm
18 fifty-two. It will be fifty-two years Sunday,
19 actually.

20 Q. Born in Lynn and then moved to Saugus
21 thereafter; is that correct?

22 A. Lynn was the hospital for the area.

23 Q. I see. Do you live now in a house or
24 in an apartment building?

GARY MANSFIELD

April 27, 2006

Page 9

1 A. I have a house.

2 Q. And did you live somewhere else in
3 Saugus prior to the house that you're in now?

4 A. Yes.

5 Q. Okay. And how long did you live in
6 that prior residence?

7 A. Thirty-five years.

8 Q. Okay. Are you married or single?

9 A. I am married.

10 Q. Do you have any children?

11 A. Yes.

12 Q. And your educational background?
13 Where were you educated?

14 A. Saugus schools.

15 Q. Anything postgraduate from high
16 school?

17 A. Umm. Accredited? I don't know what
18 you mean.

19 Q. College? Junior college?

20 A. No.

21 Q. Training programs?

22 A. Military and police. That's it.

23 Q. Okay. Where do you work now?

24 A. Saugus Police Department.

CATUOGNO COURT REPORTING SERVICES

Springfield, MA Worcester, MA Boston, MA Lawrence, MA Providence, RI

GARY MANSFIELD

April 27, 2006

Page 10

1 Q. And how long have you worked there?

2 A. I believe this is my twenty-eighth
3 year.

4 Q. Okay. And what is your position at
5 the Saugus Police Department?

6 A. I am a patrol officer.

7 Q. So you worked as a patrolman or patrol
8 officer for the Saugus Police Department going
9 on twenty-eight years; is that correct?

10 A. Yes. The first eight were full-time
11 reserve status, and from '85 on, it was
12 full-time status.

13 Q. Okay. As part of your training for
14 becoming a police officer in Saugus, did you
15 attend either the State Police Academy or a
16 local academy?

17 A. Yes.

18 Q. Which one?

19 A. It was a municipal academy run by the
20 State Police.

21 Q. Okay. And have you ever applied for
22 or tested for a sergeant's exam?

23 A. I have tested for it.

24 Q. And what are the results of those

CATUOGNO COURT REPORTING SERVICES

Springfield, MA Worcester, MA Boston, MA Lawrence, MA Providence, RI

GARY MANSFIELD

April 27, 2006

Page 11

1 tests?

2 MR. CLOHERTY: Objection.

3 You can answer.

4 A. If you are looking for a grade, I
5 don't recall.

6 Q. (By Mr. Olson) Has the Saugus Police
7 Department ever considered you for a promotion?

8 A. You will have to ask them.

9 Q. Okay. And in addition to the training
10 prior to you becoming a police officer, has
11 Saugus provided you with any additional training
12 or any other kinds of education to help you
13 perform your training as a patrolman?

14 A. I didn't get that.

15 Q. All right. In addition to the
16 training that you received prior to becoming a
17 police officer--

18 A. The academy?

19 Q. Yes. -- has the Saugus Police
20 Department provided you with additional training
21 or education to help you perform your duties as
22 a patrolman?

23 A. Yes.

24 Q. And what did that consist of?

GARY MANSFIELD

April 27, 2006

Page 12

1 A. We have annual in-service.

2 Q. And were you on duty and performing
3 your functions as a patrol officer on, I believe
4 it was a Friday, October 17th, 2003?

5 A. Yes.

6 Q. And at sometime during the course of
7 that day, did you go to the Sears Automotive
8 building at the Square One Mall in Saugus?

9 A. Yes, I did.

10 Q. Do you remember approximately what
11 time you went to the Sears Automotive building?

12 A. I do not. My best guess is early
13 evening.

14 Q. Okay. And what were the circumstances
15 that caused you to go to the Square One Mall,
16 Sears Automotive?

17 A. I was sent there.

18 Q. And who dispatched you to the Square
19 One Mall?

20 A. Police dispatch.

21 Q. Okay. Did anyone accompany you, a
22 partner, to the Sears Automotive?

23 A. No.

24 Q. Okay. Do you know if there is a

GARY MANSFIELD

April 27, 2006

Page 13

1 record or a log of dispatchers kept by the
2 Saugus Police Department?

3 A. I don't know what their recordkeeping
4 is.

5 Q. Okay. When you arrived at Sears
6 Automotive on the 17th of October, 2003, what
7 did you do?

8 A. I entered the building.

9 Q. Okay. Which building. The Sears
10 Automotive building?

11 A. Yes.

12 Q. Okay. And with whom did you meet?

13 A. I don't recall the name. It was a
14 female.

15 Q. Okay. Do you recall whether it was a
16 loss prevention officer?

17 A. My understanding, it was.

18 Q. Okay. And what did you discuss with
19 this person?

20 A. She told me why I was called up
21 there.

22 Q. And what did she say as to why you
23 were called up there?

24 A. My recollection is that she said that

CATUOGNO COURT REPORTING SERVICES

Springfield, MA Worcester, MA Boston, MA Lawrence, MA Providence, RI

GARY MANSFIELD

April 27, 2006

Page 14

1 they had an incident with a past employee who
2 had come on the property and caused property
3 damage, and that they wanted it adjudicated.

4 **Q. Okay. And what did you observe after**
5 **having this conversation with the female**
6 **employee of Sears?**

7 A. I obtained a voluntary statement from
8 one of the employees who stated that he
9 witnessed the event.

10 **Q. So you spoke to the person that I will**
11 **identify as a loss prevention officer. You**
12 **spoke to her, and then spoke to a witness that**
13 **the loss prevention person told you to speak to;**
14 **is that correct?**

15 A. Yes.

16 **Q. Okay. And do you remember that**
17 **person's name?**

18 A. An Hispanic name. It doesn't come to
19 me right now.

20 **Q. Might it have been Hernandez?**

21 A. It might have been.

22 **Q. Okay. And once you finished your**
23 **conversation with Mr. Hernandez and the loss**
24 **prevention person, did you go to observe the**

CATUOGNO COURT REPORTING SERVICES

Springfield, MA Worcester, MA Boston, MA Lawrence, MA Providence, RI

GARY MANSFIELD

April 27, 2006

Page 15

1 **Sears Automotive building?**

2 MR. CLOHERTY: Objection.

3 You can answer.

4 A. No.

5 Q. (By Mr. Olson) Okay. So let me
6 understand you. You never actually went to the
7 Sears Automotive building to witness what had
8 been described as destroyed property; is that
9 correct?

10 MR. CLOHERTY: Objection.

11 You can answer.

12 A. I was in that building.

13 Q. (By Mr. Olson) Okay.

14 A. I did not go to the area that they
15 stated there was damage.

16 Q. Okay. And why not?

17 A. My recollection is that it had already
18 been cleaned.

19 Q. I see. I would like to now actually
20 refer you to a document that I would like to
21 have marked as Exhibit 1, if I may.

22 (Exhibit No. 1 was marked
23 for identification)

24 Q. (By Mr. Olson) You have just been

GARY MANSFIELD

April 27, 2006

Page 16

1 handed a document that we've marked as Exhibit

2 1. Do you recognize this document, officer?

3 A. Yes, I do.

4 Q. And what is it?

5 A. It's my answers to Interrogatory
6 questions.

7 Q. Okay. If you could turn to page 2
8 with me?

9 A. (Complying)

10 Q. Your answer to No. 3 states, and
11 correct me if I'm wrong: I was dispatched to
12 Sears by a police department dispatcher, name
13 unknown, to investigate a complaint of malicious
14 destruction of property.

15 Is that correct, to the
16 best of your recollection?

17 A. Yes.

18 Q. Okay. And you have already testified
19 that you don't know which dispatcher it was; is
20 that correct?

21 A. That's correct.

22 Q. Okay. And do you know how many
23 dispatchers the Town of Saugus has?

24 A. No.

GARY MANSFIELD
April 27, 2006

Page 17

1 Q. Okay. I'll put the exhibit aside for
2 a moment. According to your understanding of
3 the Massachusetts General Laws, do you know of a
4 crime of malicious destruction of property?

5 MR. CLOHERTY: Objection.
6 You can answer.

7 A. Yes.

8 Q. (By Mr. Olson) And do you know where
9 in the Massachusetts General Laws section and
10 chapter that is located?

11 MR. CLOHERTY: Objection.
12 You can answer.

13 A. 266, I believe.

14 Q. (By Mr. Olson) Okay. The chapter
15 number? The chapter number 266?

16 A. Yes.

17 Q. Okay. And do you know if this crime
18 is a felony or a misdemeanor?

19 A. Under two hundred fifty dollars, a
20 misdemeanor, and over two hundred fifty dollars,
21 a felony, is my understanding.

22 Q. And do you know whether violators of
23 this statute can be fined or imprisoned, or
24 both?

GARY MANSFIELD

April 27, 2006

Page 18

1 MR. CLOHERTY: Objection.

2 A. Yes. The law dictates that that is
3 part of the punishment, I believe.

4 Q. (By Mr. Olson) would you turn to page
5 3, again, of Exhibit 1, please?

6 A. (Complying)

7 Q. Your answer to Interrogatory No. 4--
8 I'm sorry. Actually it's the question. The
9 question is on the bottom of page 2, and your
10 answer is on the top of page 3.

11 The question asked you what
12 damage to property you saw, and your response on
13 the top of page 3 is: I do not recall seeing
14 the damaged property.

15 MR. CLOHERTY: Objection.
16 You can answer.

17 Q. (By Mr. Olson) Is that correct?

18 A. Yes, that's correct.

19 Q. Okay. And have you investigated
20 complaints of malicious destruction of property
21 in the past prior to this incident?

22 A. Yes.

23 Q. Okay. And when you did those
24 investigations, do you recall seeing the damaged

CATUOGNO COURT REPORTING SERVICES

Springfield, MA Worcester, MA Boston, MA Lawrence, MA Providence, RI

GARY MANSFIELD

April 27, 2006

Page 19

1 **property?**

2 A. Probably more than not.

3 Q. Okay. So there had been circumstances
4 in the past when you didn't see the damaged
5 property and still charged them with that
6 offense; is that correct?

7 A. I think that would be a fair
8 statement. I could not tell you any specific
9 ones.

10 Q. Okay. And you're familiar, officer, I
11 assume with the term "probable cause"?

12 A. Yes.

13 Q. Okay. What led you to think that you
14 had probable cause to believe that a crime had
15 been committed on the day in question?

16 MR. CLOHERTY: Objection.
17 You know, at this stage, counsel, I think it's
18 not necessarily a fair question. Why don't you
19 ask him if he made that determination. The
20 question assumes he made a probable cause
21 determination.

22 MR. OLSON: Well, didn't
23 he?

24 MR. CLOHERTY: Why don't

CATUOGNO COURT REPORTING SERVICES

Springfield, MA Worcester, MA Boston, MA Lawrence, MA Providence, RI

GARY MANSFIELD

April 27, 2006

Page 20

1 you ask the question of the witness.

2 Q. (By Mr. Olson) Didn't you make a
3 determination that you had probable cause to
4 believe that a crime had been committed?

5 A. Yes.

6 Q. Based on what information?

7 A. The information that I was given by
8 the Sears employees.

9 Q. Okay. And when you refer to the
10 information given by the Sears employees, you're
11 talking about the statements made by the loss
12 prevention officer?

13 A. And the witness, yes.

14 Q. Okay. And you said you received from,
15 who we will assume is Mr. Hernandez, a written
16 statement?

17 A. That is my recollection, yes.

18 Q. Okay. On that day, did you observe--
19 I believe you already answered this, but I'll
20 ask, did you observe any damage to the concrete
21 floor in the Sears Automotive building?

22 A. No.

23 Q. Okay. Turning back to the Exhibit
24 No. 1, one more time, would you please turn to

CATUOGNO COURT REPORTING SERVICES

Springfield, MA Worcester, MA Boston, MA Lawrence, MA Providence, RI

GARY MANSFIELD

April 27, 2006

Page 21

1 page 3?

2 A. (Complying)

3 Q. Interrogatory No. 6 asked you how you
4 arrived at the conclusion that the waste oil
5 contained in the 30-gallon drum had a value of
6 three thousand dollars. And you responded:
7 That figure was given to me by Sears employee,
8 Alicia Coviello. A-L-I-C-I-A C-O-V-I-E-L-L-O.
9 Is that correct?

10 A. Say the question again, please.

11 Q. (By Mr. Olson) Yes. You said in
12 response to the Interrogatory about the value of
13 waste oil in the 30-gallon drum that you had
14 obtained that figure-- I'm sorry. The quote
15 was: That figure was given to me by Sears
16 employee, Alicia Coviello. Is that correct?

17 A. Yes, my dollar values that I assigned
18 to this case were given to me by Sears.

19 Q. And did you ask Miss Coviello how she
20 arrived at that figure?

21 A. My recollection was that I did.

22 Q. Okay. And have you ever purchased a
23 quart of oil for your car?

24 A. Yes.

CATUOGNO COURT REPORTING SERVICES

Springfield, MA Worcester, MA Boston, MA Lawrence, MA Providence, RI

GARY MANSFIELD

April 27, 2006

Page 22

1 Q. Okay. And do you recall-- with rising
2 gas prices it's hard to tell-- but do you recall
3 what it cost when you bought that quart?

4 MR. CLOHERTY: Objection.

5 A. No.

6 Q. (By Mr. Olson) If I told you that a
7 30-gallon drum contains a hundred and twenty
8 quarts of oil, and if you multiply that by three
9 dollars for the average price, that would be
10 three hundred and sixty dollars for fresh rather
11 than waste oil, would you be more likely to
12 question Miss Coviello as to how she arrived at
13 the figure of three thousand dollars?

14 MR. CLOHERTY: Objection.

15 It calls for speculation, counsel.

16 You can answer it if you
17 can.

18 A. Would you repeat your question again?

19 Q. (By Mr. Olson) Absolutely. If a
20 30-gallon drum of waste oil contains one hundred
21 twenty quarts of oil, and we assume that quarts
22 of oil cost three dollars, that would be three
23 hundred and sixty dollars for fresh oil--

24 A. Okay.

CATUOGNO COURT REPORTING SERVICES

Springfield, MA Worcester, MA Boston, MA Lawrence, MA Providence, RI

GARY MANSFIELD

April 27, 2006

Page 23

1 Q. -- would you be more likely to
2 question how Miss Coviello arrived at the figure
3 of three thousand dollars for thirty gallons of
4 waste oil knowing what I just told you?

5 MR. CLOHERTY: Objection.
6 I'm objecting to the form of the question. You
7 can answer if you can.

8 A. I do not question how she came to that
9 figure. I understand how she came to it.

10 Q. (By Mr. Olson) Okay.

11 MR. OLSON: I would like to
12 mark this as Exhibit 2, if I could.

13 (Exhibit No. 2 was marked
14 for identification)

15 Q. (By Mr. Olson) Have you ever seen
16 this document before, officer?

17 A. I do not recall ever seeing this, no.

18 Q. Okay. If you would look on the first
19 page of this two-page document, underneath where
20 it says Project Location, do you see Sears and
21 Roebuck Company Auto Center?

22 A. Yes.

23 Q. Okay. And directly underneath that,
24 in a different font size, it says, Friday,

CATUOGNO COURT REPORTING SERVICES

Springfield, MA Worcester, MA Boston, MA Lawrence, MA Providence, RI

GARY MANSFIELD

April 27, 2006

Page 24

1 October 17th, 2003, 10:30 a.m. to 4:00 p.m., and
2 then in a parenthetical it says: Only charged
3 four hundred min.

4 Do you see that?

5 A. Yes.

6 Q. Okay. Does that indicate to you that
7 the services provided to clean up the oil was
8 completed at 4:00 p.m. on the afternoon of
9 October 17th?

10 MR. CLOHERTY: Objection.
11 Counsel, the document speaks for itself. He
12 testified he hasn't seen it before. I don't
13 think it's fair for you to ask him to vouch for
14 what took place to support this document.

15 MR. OLSON: Okay.

16 Q. (By Mr. Olson) Do you have any
17 knowledge about whether or not ENPRO Services
18 was present when you arrived on October the
19 17th? Did you see clean-up trucks?

20 A. No.

21 MR. OLSON: I would like to
22 mark this one as Exhibit No. 3.

23 (Exhibit No. 3 was marked
24 for identification)

CATUOGNO COURT REPORTING SERVICES

Springfield, MA Worcester, MA Boston, MA Lawrence, MA Providence, RI

GARY MANSFIELD

April 27, 2006

Page 25

1 Q. (By Mr. Olson) Do you recognize this
2 document, officer?

3 A. No, I do not.

4 Q. Okay. And do you see in the middle--
5 it looks like it's cut off, and I apologize for
6 that-- the middle of the page, the word
7 "notified" is clear. It looks like it says
8 "police" prior to that, and it's "police
9 notified", and then that's circled "yes."

10 Do you see that?

11 A. No, I do not.

12 Q. Okay.

13 A. This is where he signed right here
14 circled "yes"?

15 Q. Yes.

16 A. Okay, yes.

17 Q. And underneath where it says "Time
18 called", 5:00, the same line as the one I
19 referred you to?

20 A. Eh-heh.

21 Q. And next to that it says, Time
22 arrived, 5:15. Do you see that?

23 A. I see that.

24 Q. Okay. And do you see underneath

CATUOGNO COURT REPORTING SERVICES

Springfield, MA Worcester, MA Boston, MA Lawrence, MA Providence, RI

GARY MANSFIELD

April 27, 2006

Page 26

1 "Officer responding" your name, Gary Mansfield?

2 A. Yes.

3 Q. Okay. If you arrived at 5:15 on the
4 afternoon of October 17th, could you possibly
5 have seen any waste oil on the floor of the
6 Sears Automotive building?

7 MR. CLOHERTY: Objection.

8 Q. (By Mr. Olson) Did you see any waste
9 oil either outside the Sears Automotive building
10 or inside the Sears Automotive building on that
11 day?

12 A. I already answered that I do not
13 recall seeing any of the damage.

14 Q. And you also testified that you never
15 saw any clean-up trucks on that day; is that
16 correct?

17 A. I don't recall seeing any clean-up
18 trucks there, right.

19 Q. Okay.

20 MR. OLSON: That's all I
21 have.

22 MR. CLOHERTY: I've got a
23 couple quick questions for you, sir.

24 Do you have anything?

GARY MANSFIELD
April 27, 2006

Page 27

1 MS. NETSKI: Yes. Could I
2 just ask a couple of things?

3
4 EXAMINATION BY MS. NETSKI:

5
6 Q. Officer Mansfield, you said that you
7 spoke with the loss prevention manager when you
8 arrived at the auto center; is that right?

9 MR. OLSON: Objection.

10 A. My understanding is that that was her
11 position, loss prevention, yes.

12 Q. (By Ms. Netski) And was that Alicia
13 Coviello, as far as you're able to recall?

14 A. Yes.

15 Q. And do you remember speaking with
16 anyone else at the auto center while you were
17 there?

18 A. I recall other people being there, but
19 my recollection is I spoke with Alicia Coviello
20 and then the witness that I obtained a statement
21 from.

22 Q. And that was Mr. Hernandez, to the
23 best of your recollection?

24 A. Yes, ma'am.

GARY MANSFIELD

April 27, 2006

Page 28

1 Q. And so would it be fair to say you
2 didn't receive any substantive information in
3 the investigation from anyone other than
4 Miss Coviello and Mr. Hernandez?

5 A. That's my recollection and my
6 understanding, yes.

7 Q. Okay.

8 MS. NETSKI: That's all I
9 have.

10
11 EXAMINATION BY MR. CLOHERTY:

12
13 Q. Sir, you were asked on direct
14 examination by Mr. Olson about the value of
15 three thousand dollars assigned as the property
16 damage. Do you recall that line of questioning,
17 sir?

18 A. Yes, sir.

19 Q. And from where was that three
20 thousand-dollar figure derived?

21 A. That was a total value of the damage
22 including the clean-up.

23 Q. Okay. And how were you informed or
24 how did you determine that value, sir?

CATUOGNO COURT REPORTING SERVICES

Springfield, MA Worcester, MA Boston, MA Lawrence, MA Providence, RI

GARY MANSFIELD

April 27, 2006

Page 29

1 A. I was given that value by the
2 complainant, Miss Coviello.

3 Q. And, in fact, looking at what was
4 marked as Exhibit No. 2, it appears to be an
5 invoice of services from a clean-up company. Do
6 you see that, sir?

7 A. Yes, sir.

8 Q. Have you ever seen that before?

9 A. Just earlier today.

10 Q. Okay. And on page 2 of that document,
11 there's a total value of clean-up on that
12 invoice. Did you see that, sir?

13 A. Yes, sir.

14 Q. And what is that amount?

15 A. Four thousand four hundred
16 eighty-three dollars and sixty-five cents.

17 Q. Earlier, sir, you were asked on direct
18 examination about a probable cause
19 determination. Do you recall that line of
20 questioning, sir?

21 A. Yes, sir.

22 Q. In your role as a responding officer
23 in this case, did you effect any arrests as a
24 result of your investigation?

GARY MANSFIELD

April 27, 2006

Page 30

1 A. I did not.

2 **Q. And why not?**

3 A. I brought this matter before the court
4 as requested for a probable cause hearing. The
5 information was given to me, and my
6 understanding met the elements of the crime, and
7 the next step in that is to bring it before a
8 magistrate and have him adjudicate it.

9 **Q. And how did that process take place,**
10 **sir?**

11 A. I submitted a request for a hearing.

12 **Q. And accompanying the request for a**
13 **hearing, what did you submit, sir?**

14 A. My report and witness statements.

15 **Q. And do you know if that hearing took**
16 **place, sir?**

17 A. Umm. I believe it did.

18 **Q. Okay. Did you have any further**
19 **participation in this matter after submitting**
20 **the request for a hearing?**

21 A. My best recollection is that I did
22 not.

23 MR. CLOHERTY: I don't have
24 anything further.

CATUOGNO COURT REPORTING SERVICES

Springfield, MA Worcester, MA Boston, MA Lawrence, MA Providence, RI

GARY MANSFIELD

April 27, 2006

Page 31

1 MR. OLSON: I have
2 redirect.

3
4 FURTHER EXAMINATION BY MR. OLSON:

5
6 Q. You testified that you submitted
7 witness statements, I believe. I thought I
8 heard plural. Is that correct?

9 A. If I did, it was misspoke. It was a
10 witness statement.

11 Q. So the only witness statement that you
12 submitted was that of Mr. Hernandez; is that
13 correct?

14 A. Yes, I believe that is the only one
15 that I had.

16 Q. Okay. You did not obtain a witness
17 statement from Miss Coviello; is that correct?

18 A. No.

19 MR. OLSON: Okay. Thank
20 you.

21 MR. CLOHERTY: Nothing
22 further.

23 MS. NETSKI: Thank you.

24 (Deposition concluded at 10:25 a.m.)

GARY MANSFIELD

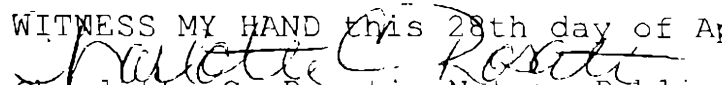
April 27, 2006

Page 32

1 I, CHARLOTTE C. ROSATI, a Notary Public in
2 and for the Commonwealth of Massachusetts, do
3 hereby certify that GARY MANSFIELD came before
4 me on the 27th day of April, 2006, at Andover,
5 Massachusetts, and was satisfactorily identified
6 and duly sworn by me to testify to the truth and
7 nothing but the truth as to his knowledge
8 touching and concerning the matters in
9 controversy in this cause; that the deponent was
10 thereupon examined upon his oath, and said
11 examination reduced to writing by me; and that
12 the statement is a true record of the testimony
13 given by the deponent, to the best of my
14 knowledge and ability.

15 I further certify that I am not a relative
16 or employee of counsel or attorney for any of
17 the parties, nor a relative or employee of such
18 parties, nor financially interested in the
19 outcome of the action.
20
21

22 WITNESS MY HAND this 28th day of April, 2006

23 
Charlotte C. Rosati, Notary Public

24 My Commission expires: January 19, 2007

CATUOGNO COURT REPORTING SERVICES

Springfield, MA Worcester, MA Boston, MA Lawrence, MA Providence, RI

GARY MANSFIELD

April 27, 2006

Page 33

1 Today's date: April 28, 2006
2 To: John J. Cloherty III, Esq.
3 Copied to: Kurt Olson, Esq.
4 Copied to: Christine M. Netski, Esq.
5 From: Charlotte C. Rosati, RPR
6 Deposition of: Gary Mansfield
7 Taken: April 27, 2006
8 Action: SOUVANNAKANE
9 vs. SEARS, ROEBUCK
10
11

12 Enclosed is a copy of the deposition of
13 Gary Mansfield. Pursuant to the Rules of Civil
14 Procedure, the deponent has thirty days to sign
15 the deposition from today's date.

16 Please have Mr. Mansfield sign the
17 enclosed signature page. If there are any
18 errors, please have him mark the page, line and
19 error on the enclosed correction sheet. The
20 deponent should not mark the transcript itself.
21 This addendum should be forwarded to all
22 interested parties.

23 Thank you for your cooperation in this
24 matter.

CATUOGNO COURT REPORTING SERVICES

Springfield, MA Worcester, MA Boston, MA Lawrence, MA Providence, RI

GARY MANSFIELD

April 27, 2006

Page 34

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MASSACHUSETTS
3 C.A. NO. 04-12164-MLW
4
5

6 ERIC SOUVANNAKANE,
7 Plaintiff

8 v.

9 SEARS, ROEBUCK AND CO.,
10 Defendant
11
12
13
14

15 I, GARY MANSFIELD, do hereby certify under
16 the pains and penalties of perjury that the
17 foregoing testimony is true and accurate, to
18 the best of my knowledge and belief.

19 WITNESS MY HAND this day of
20 2006.
21

22 GARY MANSFIELD

23 CCR
24

Springfield, MA Worcester, MA Boston, MA Lawrence, MA Providence, RI